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EXECUTIVE COUNCIL
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**REPORT OF THE SUB-COMMITTEE ON HEADQUARTERS AND
HOST AGREEMENTS**

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**MEETING OF THE PRC SUB-COMMITTEE
ON HEADQUARTERS AND HOST AGREEMENTS
22 OCTOBER 2018
10:00 – 12:00HRS
ADDIS ABABA, ETHIOPIA**

Original: English

DRAFT

**REPORT OF THE MEETING OF THE PRC SUB-COMMITTEE ON
HEADQUARTERS AND HOST AGREEMENTS**

DRAFT
REPORT OF THE MEETING OF THE PRC SUB-COMMITTEE ON
HEADQUARTERS AND HOST AGREEMENTS

I. INTRODUCTION

1. The members of the PRC Sub-Committee on Headquarters and Host Agreements, met on 22 October 2018 at the AU Headquarters in Addis Ababa, Ethiopia. to discuss issues relating to the implementation of the Agreement between the African Union and the Federal Democratic Republic of Ethiopia, on the Headquarters of the AU , as well as issues arising from the implementation of Host Country Agreements between the AU and States hosting AU institutions, organs, agencies and offices.
2. The meeting was chaired by H.E. Amb. Naimi SH. Aziz, Permanent Representative of the United Republic of Tanzania to the African Union.

II. ATTENDANCE

3. The meeting had in attendance the following members of the PRC Sub-Committee:

i. Benin	v. Ghana	ix. Tanzania
ii. Central African Republic	vi. Kenya	x. Zimbabwe
iii. Equatorial Guinea	vii. Lesotho	
iv. Eritrea	viii. Mauritania	
4. The Federal Democratic Republic of Ethiopia (the Host Country) was also represented at the meeting.

III. OPENING

5. H.E. Amb. Aziz, in her opening remarks, welcomed the participants to the meeting and indicated that their presence was a testament to the importance they attach to the issues under consideration. She noted that the meeting could not start at the designated time, due to lateness of some of the members, resulting in a lack of quorum. In this regard, she commended the Member States that were punctual and urged the others to respect the scheduled time in the future.
6. She recalled the last decision of the Executive Council on the implementation of the Headquarters Agreement and emphasised the need to ensure that the Sub-committee meets regularly to resolve the outstanding issues.

IV. ADOPTION OF THE DRAFT AGENDA

7. The Chairperson introduced the Draft Agenda with the following items for consideration by the Members of the Sub-Committee:
 - a. Opening
 - b. Adoption of the draft agenda
 - c. Consideration and adoption of the draft report of the last meeting of the Sub-committee
 - d. Consideration of the report of the meeting of the Joint Headquarters Implementation Committee (JHIC)
 - e. Update on the Matrix of Pending Issues
 - f. Discussions on the Host agreement between the AU and the Republic of South Africa on the seat of the Pan African Parliament
 - g. Any other business
 - h. Closing
8. The Agenda was adopted without any amendment.

V. CONSIDERATION AND ADOPTION OF THE DRAFT REPORT OF THE LAST MEETING OF THE SUB-COMMITTEE

9. A Member State observed that the Draft Report did not refer to any of the substantive decisions taken by the Subcommittee. In this regard, the Commission was requested to specifically set out the decision of the meeting at the conclusion of deliberations on each agenda item.
10. The Report was adopted with minor amendments.

VI. CONSIDERATION OF THE REPORT OF THE MEETING OF THE JOINT HEADQUARTERS IMPLEMENTATION COMMITTEE (JHIC) AND UPDATE ON THE MATRIX OF PENDING ISSUES (Agenda Items (d) and (e))

11. In view of the overlap between agenda items (d) and (e), the Meeting decided to consider both items jointly. The Report of the Meeting of the Joint Headquarters Implementation Committee held on 11 May 2018 and the updates on the Matrix of Pending Issues, were jointly presented by the representative of the Commission and the Host Government, respectively.
12. **The representative of the Commission began with an update on the issues contained in the matrix and as discussed at the meeting of the JHIC as follows:**

- a. On the establishment of a working group to develop a set of Guidelines on implementation of the Headquarters Agreements (“Guidelines”), the Commission noted that the Host Country had already communicated the names of its focal persons and that at the last meeting of the JHIC, it was agreed that the Commission would develop the ‘zero’ draft guidelines as a basis for discussion;
- b. The Office of the Legal Counsel is in the process of finalising the study on host agreements after having conducted field missions to five (5) Member States, namely, Ethiopia, Gambia, South Africa, Tanzania and Zimbabwe. The draft report is currently being considered by the Chairperson of the PRC Sub-Committee on Equitable Geographical Distribution of the AU Institutions;
- c. The staff member of the Commission previously detained by Ethiopian authorities without an express waiver of his immunities, has been released;
- d. The Host Country informed the Commission that the pending issue with obtaining a visa for Eritrean nationals had been resolved, however, no official communication from the Host Country was received on the matter;
- e. On the case of Amare Wolde, the representatives of the Commission and the Ministry of Foreign Affairs of Ethiopia met on 14 August 2018 to discuss the case with a view to reaching an amicable solution. The Commission was requested to send an official communication to the Ministry of Foreign Affairs, detailing the request for a waiver of the taxes accruing to the vehicle. However, due to the heavy workload of the Office of the Legal Counsel, the request is still pending, although it is hoped that a resolution will be reached by the end of 2018;
- f. Foreign currency withdrawal limit allowed by Commercial Bank of Ethiopia still remains at USD \$5,000, contrary to the Proclamation by the Government, which set the limit at USD \$10,000;
- g. Based on the explanation provided by the Host Country, the lack of money transfer systems outside of the banks will remain so until the banking laws and policies of the Host Country are changed, which is a long-term process;
- h. On the issue raised by the Host Country regarding the abuse of privileges by some staff members of the Commission, efforts will be made to sensitise staff members on the rules relating to the privileges they enjoy and new staff will be informed as part of their induction training;
- i. the issue of accreditation of caterers to service meetings and events at the AU Headquarters, will be considered for settlement in a meeting

between the relevant departments of the Commission and the Host Country.

- j. On the request of the Host Country for full membership of the Sub-Committee, it was decided at the last meeting of this Sub-Committee that Ethiopia would maintain its observer status ***as and when the Host would be requested to appear***, but could not acquire full membership at this stage; and
- k. The Host Country's request for a liaison office on the AU premises is still a pending issue awaiting the report of the Commission on the legal and financial implications of such a decision, which will be made ready for consideration at the next meeting of the Sub-Committee.

13. The representative of the Host Country further clarified as follows:

- a. Banks remain the only means to transfer money;
- b. Foreign currency withdrawals can be made up to a maximum amount of USD \$5,000 in cash, and the option to use the Commercial Bank electronic visa cards for the other USD \$5,000. The Commission should put its complaints in writing to the Ministry of Foreign Affairs;
- c. the Ministry of Transport is currently considering the directive for issuance of Ethiopian Drivers' licenses in the English language, for subsequent consideration by the Council of Ministers;
- d. The Ethiopian Transport Authority had encountered some technical issues in setting up the unit for issuance of drivers' licences in English, however, the resolution of the problem is now underway;
- e. On the outstanding payment of \$4,660.40 for conference facility services, the Host Country asserted that the payment was already made and the receipt presented to the AU Finance Department, however, the date of payment could not be verified;
- f. The issue of visas for Eritrean nationals has already been resolved; and
- g. Issues raised with regards to the poor software and internet quality were addressed and there were no longer complaints on them.

14. Following the presentation of updates by the Commission and the Host Country, the members of the Sub-Committee made the following observations and decisions:

- a. The Commission and the Customs Department of the Host Country should meet to conclude the pending issues in the Amare Wolde case;

- b. The *de facto* maximum withdrawal limit contradicted with the Proclamation made by the Government in 2013 on USD \$10,000, in this regard, until the Government revokes the Proclamation, the limit should be respected. In any case, if visa cards are to be utilised, charges and taxes on visa transactions should be exempted.
- c. The Commission should prepare the report on the Host Government's request for a liaison office on the premises of the AU for consideration by the next meeting of the Sub-Committee;
- d. The study on host agreements between the AU and Host States has been pending for a long time and a timeframe is needed after the decision of the Executive Council;
- e. The issue of relating to entry visas for Eritrean nationals had affected two (2) people and has in any case, been resolved;
- f. The Commission and Host Country should set a timeframe for development of the guidelines on the implementation of the Headquarters Agreement and the Commission should immediately communicate the name of its focal person(s) to the Host Country;
- g. The issue of outstanding payment for conference facility has no relation to headquarters and host agreements and should be handled separately outside of the Subcommittee because it was a purely financial matter;
- h. All resolved matters in the matrix should be separated from the pending issues in order to have clarity; and
- i. The Chairperson remarked on the situation of understaffing within the OLC, which has constrained the work of the Subcommittee.

15. Further clarifications by Members of the Sub-Committee:

- a. A Member of the Subcommittee sought clarification on whether the imposition of 2% tax/levy on the importation of vehicles, which is now resolved, also applied to Embassies and/or diplomats.
- b. The Host State clarified that the tax/levy exemption is applicable to both Embassies and diplomats, therefore they have the right not to pay taxes. The representative of the OLC further clarified that the issue was immediately resolved by the Host Country when the Commission raised the issue through official communication.
- c. A Member of the Sub-Committee sought clarification the types of physical body searches allowed by the government, following some cases of misunderstanding on the limits of body searches imposed towards certain personalities at the VIP area of the airport.

- d. The Host Country once again expressed regret at the incident and explained that the procedure is clear for the airport security officials, despite non-compliance by some officials. He, however, assured the meeting of non-repetition of such incidents.

VII. DISCUSSIONS ON THE HOST AGREEMENT BETWEEN THE AU AND THE REPUBLIC OF SOUTH AFRICA ON THE SEAT OF THE PAN AFRICAN PARLIAMENT

16. The representative of the OLC clarified that in accordance with its provisions, the Host Agreement had entered into force provisionally pending notification by both parties of the completion of their respective internal procedures, following which the Agreement would enter into force definitively. In this regard, she informed the meeting that the Host Agreement entered into force in 2017 after the Commission had received a Note Verbal from the Republic of South Africa. Consequently, if changes of terms are needed, they have to be in line with the Host Agreement itself.
17. The Chairperson requested the OLC to arrange a meeting with the Representative of the Republic of South Africa and a representation of the Pan African Parliament to discuss the issues of concern.

VIII. AOB

18. The representative of the OLC requested to introduce on the matrix a point related to the colour coding of the Ethiopian IDs of the Commission' staff in order to seek clarity on the meaning and value of the different colours.

IX. CLOSING

19. The Chairperson made a recap of the documents to be ready for the next meeting, namely:
 - a. Report of the study on Host Agreements;
 - b. Report on the legal implication of the presence of the Host Country's liaison office in the AU Headquarters; and
 - c. The 'zero' draft of the Guidelines.
20. The Chairperson urged the Members of the Subcommittee to be punctual at meetings. She closed by thanking the members of the Sub-Committee for attending the meeting.

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**Meeting of the PRC Sub-Committee
on Headquarters and Host Agreements
Thursday, 3 January 2019
14:00 Hours
Small Conference Room 1, NCC**

Original: English

DRAFT

**REPORT OF THE MEETING OF THE PRC SUB-COMMITTEE ON
HEADQUARTERS AND HOST AGREEMENTS**

**DRAFT REPORT
MEETING OF THE PRC SUB-COMMITTEE ON HEADQUARTERS AND HOST
AGREEMENTS**

X. INTRODUCTION

1. The members of the PRC Sub-Committee on Headquarters and Host Agreements, met on 3 January 2019 at the AU Headquarters in Addis Ababa, Ethiopia, to discuss issues arising in relation to the implementation of the Agreement between the African Union and (i) the Federal Democratic Republic of Ethiopia, on the Headquarters of the African Union; and (ii) the Republic of South Africa regarding AU Bodies based in the latter's territory and rights and obligations arising thereof.
2. H.E. Amb. Naimi SH. Aziz, Permanent Representative of the United Republic of Tanzania to the African Union chaired the meeting.

XI. ATTENDANCE OF MEMBERS

3. The meeting had in attendance the following members:
 - Tanzania
 - D.R.C.
 - Zimbabwe
 - Kenya
 - Lesotho
 - Mauritania
 - Cote d'Ivoire
 - Ghana
 - Niger

4. Upon the invitation of the PRC Sub-Committee on Headquarters and Host Agreements, Representatives of the Federal Democratic Republic of Ethiopia and the Republic of South Africa were in attendance to address all pending issues in relations to Hosting of AU Organs in their respective jurisdictions.

XII. CONSIDERATION AND ADOPTION OF THE DRAFT AGENDA

5. The Chairperson, after welcoming the members of the Sub-Committee to the meeting, introduced the Draft Agenda with the following items for consideration:
 - i. Opening Remarks
 - ii. Consideration and adoption of the Agenda
 - iii. Discussion of the Host Country Agreement between the African Union and the Republic of South Africa on the Seat of the Pan-African Parliament
 - iv. Consideration and adoption of the report of the last meeting (22 October 2018) of the Sub-Committee on Headquarters and Host Agreements
 - v. Consideration of the draft decision of the Executive Council
 - vi. Any Other Business
 - vii. Closing
6. The agenda of the meeting was adopted with amendments proposed by the Chairperson on the Discussion of the Host Country Agreement between the African Union and the Government of South Africa.

XIII. DISCUSSIONS ON THE HOST COUNTRY AGREEMENT BETWEEN THE AFRICAN UNION AND THE REPUBLIC OF SOUTH AFRICA ON THE SEAT OF THE PAN-AFRICAN PARLIAMENT

7. It is to be recalled that the Executive Council in July 2018 vide EX/CL 1018 (XXXIII) requested PRC-Sub Committee on Headquarters and Host Agreements to finalize the review process of the Host Country Agreements with the Pan African Parliament (PAP). Subsequently, the PRC-Sub Committee on Headquarters and Host Agreements invited both the Government of South Africa and the PAP to further discuss the matter and find an amicable solution. Only the representatives of the Government of the Republic were present at the said meeting.
8. The representative of the Republic of South Africa recalled the discussion on the Host Agreement between the AU and the Republic of South Africa. In particular, the representative highlighted the disparity between the African Union instruments and the national legislations of the Republic of South Africa regarding the exemptions of taxation of salaries of nationals, local staff or holders of permanent residence permits.

9. The representative of the Government of South Africa noted, that the national legislations of South Africa, which does not allow for exemption of taxes, is currently undergoing review and consultation process within the national legal system. In this regard, the representative requested to provide an update on this issue in July 2019. The representative further requested that the Commission to avail the Headquarters agreement with the Government of the Federal Democratic Republic of Ethiopia, with the view to allow the national authorities to analyse the legal instrument.
10. The representative of Ghana requested whether other Hosts in Africa provide exemption of taxation on salaries. Clarification was further sought on the justification in exemption of taxation of salaries for nationals. It was further proposed that the Commission in collaboration with the PRC-Sub Committee on Headquarters and Host Agreements explore the benefits that could arise in taxing national of Member States. The representative noted that this will ensure the contribution of nationals to their countries economy.
11. The representative of Cote d'Ivoire also stated that the African Developmental Bank (ADB), which is based in Abidjan taxes nationals in service of the ADB in line with the Host Country Agreement with the Government. The proposal to further study the benefits of such practice was reiterated.
12. The following clarification were provided by the representative of the Office of the Legal Counsel:
 - a. The outcome of the negotiation of the Host Country Agreements for PAP will also facilitate the finalization of Host Country Agreements with other AU bodies such as the Pan African University (PAU), African Peer Review Mechanism (APRM), the New Partnership for Africa's Development (NEPAD)/African Union Development Agency (AUDA), and that the Office of the Legal Counsel will continue to engage with the Government and the relevant AU bodies in finalizing the Hosting Agreement(s). The Commission will also transmit a copy of the Headquarters agreement.
 - b. In providing the background for the provision of tax exemption on salaries from nationals or permanent residents, the representative of the Office of the Legal Counsel explained that it is based on the OAU General Convention on Privileges and Immunities and the Criteria for Hosting AU Organs. It is the understanding of the Union, which has been reinforced by the jurisprudence that the expression "direct tax" applies to any tax that the organization pays directly. Accordingly, the exemption from taxation ensures that a Host Country of any AU Organ or Institution is not subsidizing its annual assessed contribution to the organization through such a tax. In addition, the fundamental labor law principle of "equal pay for equal work" will be respected.
13. The Sub-Committee on Headquarters and Host Agreements agreed that the above-mentioned issues should be further studied and there may be need to align all Host Country Agreements accordingly.

XIV. CONSIDERATION AND ADOPTION OF THE REPORT OF THE LAST MEETING (22 OCTOBER 2018) OF THE SUB-COMMITTEE ON HEADQUARTERS AND HOST AGREEMENTS

14. The Sub-Committee on Headquarters and Host Agreements first considered its report of 22 October 2018 (attached).
15. On Paragraph 12 (j), on the maintenance of the observer status Ethiopia, it was specified that Ethiopia does not possess an observer status, but the participation is based on the invitation to attend the meetings of the Subcommittee's meeting, as has been the case for South Africa.
16. On Paragraph 13(b), the meeting once again noted that the withdrawal limit of \$10.000 is not respected by the Host Country, in spite of a standing proclamation and that the visa card option was presented as alternative option.
17. The Host Country:
 - Considered the observer status to be the best solution due to the amount of issues involving the Host Country;
 - On the withdrawal limit, it was assured that a detailed analysis with the National Bank will be conducted. In any case, it was clarified that the limit set by the proclamation is not in question; prudence suggests that the visa card may be a solution, but if it means extra costs on the customer than it has to be considered carefully.
18. The report (attached) has been adopted with the above-mentioned comments.
19. The Sub-Committee on Headquarters and Host Agreements then considered the Matrix of Pending Issues (attached).

On the Finalization of the Study on Host Agreements in Member States Hosting AU Organs and Institutions:

20. The representative of the Office of the Legal Counsel recalled the aim of the study is to present a comparative analysis of the privileges, facilities and immunities and to complement the work of the PRC Sub-Committee on Headquarters and Host Agreements, which has been requested to prepare the amendments to the criteria for hosting AU organs. In this line, the Commission briefed on its efforts to gather the necessary information from the respective Organs and Institutions of the AU through numerous written requests for their comments on the implementation of their respective host agreements.
21. The Commission also highlighted that under the leadership of the Chairperson of the Sub-Committee on Equitable Geographical Distribution, the OLC conducted field visits to South Africa (PAP, NEPAD, AFRM, AU Foundation, African Risk Capacity), Tanzania (African Union Advisory Board

on Corruption (AUABC), African Court on Human and Peoples' Rights (AfCHPR), Pan African Postal Union - PAPU) and The Gambia to the African Commission on Human and Peoples' Rights (ACHPR).

22. The Commission noted while the draft report is yet to be considered by the Sub-Committee on Equitable Geographical Distribution, the data collection showed some of the best practices, which include the Application of both the Vienna Convention and the OAU General Convention on Immunities and Privileges;¹ right of the Institution to enact regulations within their premises which shall take precedence over those of the host country; protection of the premises, including residences of senior officials from external intrusion.
23. It was further noted that challenges encountered include the recognition of AU Laissez Passer; recruitment of local staff in accordance with AU Staff Regulations and Rules; institutions are in temporary accommodation, pending the provision of permanent premises by the host governments; lack of means to ensure periodic repairs; obligations to pay tax on some goods and services, e.t.c.
24. The Sub-Committee on Equitable Geographical Distribution and the Sub-Committee on Headquarters and Host Agreements will therefore utilize the findings in the development of a set of Guidelines on the implementation of the Headquarters Agreement.

On the Issuance of Ethiopian Driver's license:

25. The representative of Ethiopia noted the process is still on going. This is due to the fact that there are various reforms within the system of Ethiopia and authorities are going to be handling the matter.
26. In terms of medical checks required prior to the issuance of driving permits, it was stated that the Government of Ethiopia has resolved this matter and clinical evaluations from AU Clinic are acceptable. The Host Country will send an official communication for the purpose.

On the Money Transfer System:

27. The representative of Ethiopia updated the meeting that a mechanism for money transfer has already been put in place, thereby allowing the transfer of money to any destination within two (2) days.

On the Maximum withdrawal limit for AU Staff Members traveling:

- a. It was recalled that the Government of Ethiopia has enacted a Proclamation which sets the withdrawal of money for AU Staff Members and diplomatic community travelling at the ceiling of USD \$10,000. Contrary to the said Proclamation, it was noted that the diplomatic

¹ One of the criteria for hosting AU Organs is that a Member State should have ratified the General Convention on Privileges and Immunities of the Organization of African Unity, the Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Consular Relations.

community only receives USD \$5,000. It was noted that the matter has been a longstanding issue that has not been resolved.

- b. The Ambassador of Ethiopia to the AU noted that the Proclamation is still in tact and some challenges will have to be further addressed. He reiterated to the Sub-Committee that all efforts to resolve the matter are underway.
- c. The Sub-Committee also reiterated previous discussions that were held with the Government on the alternative of uploading the remaining USD \$5,000 on Master Card in addition to the \$5,000 to be given by the bank, so as to allow the diplomatic community to utilize the money upon their travel.

On the Case of Amare Wolde

- 28. The Commission informed the meeting that a meeting to ensure the amicable solution between the Commission and Amare Wolde will be held soon, and updates will be provided.

Ongoing discussions

- 29. The Commission noted that the following matters are also part of the on-going discussions between the Government of the Federal Democratic Republic of Ethiopia and the Commission through exchange of letters or the Joint Headquarters Implementation Committee (JHIC):
 - d. Challenges relating to Information and Communication Technology
 - e. Provision of updates on changes in the Domestic Laws, Rules and Policies of the Host Country
 - f. Request by the Host Country for a liaison office on the premises of the AU Headquarters

Resolved matters

- 30. The Sub-Committee on Headquarters and Host Agreement noted with appreciation that the Government of the Federal Democratic Republic of Ethiopia through the leadership of Ambassador Woinshet Tadesse, former representative to the African Union resolved the following outstanding issues that have been in contention:
 - g. Detention of a staff members of the AU without explicit “waiver of immunity
 - h. Repatriation of the personal effects/vehicle of a deceased staff member
 - i. Visa denial to two (2) Eritrean nationals
 - j. Physical body search of VIPs at the VIP section of Bole International Airport
 - k. Imposition of 2% tax/levy on the importation of new vehicle

Consideration of the draft decision of the Executive Council

31. The Sub-Committee on Headquarters and Host Agreement reviewed the draft decision, and made amendments for further consideration at the 37th Permanent Representative Committee's meeting schedules to take place from 22 to 22 January 2018.

Any Other Business

a) Search of VIP's at the Bole International airport

32. The representative of Ghana and Tanzania noted that that there have been several instances at the Airport, where former Heads of States and higher officials have been subject to search at the Bole International Airport or prohibited from accessing the VIP Lounge. The representatives requested that such practices adversely affect the presence of dignitaries at AU Meeting.
33. The Subcommittee on Headquarters and Host Agreement emphasised that the Host Government should sensitize its agencies more on the laws of Ethiopia vis-à-vis the Host Agreement. The Ambassador of Ethiopia noted that all necessary measures to inform the relevant authorities on the above mentioned matter would be undertaken.

b) Matters related to the authentication/certification of documents

34. The representatives of Tanzania and Ghana stated that the recognition of certificates by the Ministry of Foreign Affairs of Ethiopia has been a challenge, as applicants are being requested to undergo a cumbersome process of authentication both at the Foreign Ministry and the Embassies of Ethiopia.
35. The Ambassador of Ethiopia noted that the authentication system is indeed lengthy due to the sensitivity of matters. He noted, that while the system may still require various tiers of certification for issues related to Interpol, court document, etc, the Government shall endeavour to create a simplified system for academic documents.

XV. CLOSING

36. The Chairperson of the Sub-Committee expressed the appreciation of the Meeting to the Host for all the efforts undertaken in addressing the challenges faced by the African Union and the diplomatic Community in various areas.
37. The Chairperson further noted the importance of a continued dialogue with the Host on all pending issues.
38. The Chairperson closed the meeting.

PRC SUBCOMMITTEE ON HEADQUARTERS AND HOST AGREEMENTS

Updated Version – 3 January 2019

MATRIX OF PENDING ISSUES					
S/N	ISSUES	BACKGROUND/ ACTIONS TAKEN	PENDING ACTION(S)	Action By	Remarks/Status
1.	Discussions on the Host agreement between the AU and the Republic of South Africa on the seat of the Pan African Parliament	<p>1. The Executive Council Decision EX.CL/Dec. 1018 in Nouakchott, Mauritania, requested the “PRC Sub-Committee on headquarters and Host Agreements and the Commission to work in collaboration with PAP and the Government of South Africa to finalize the review process of the Host Country Agreement with a view to addressing the challenges encountered by the PAP and the Government of South Africa.</p> <p>2. In the implementation of the above Decision, the PRC Sub-Committee on Headquarters and Host Agreements (“Sub-Committee”), at its meeting held on 22</p>	There is need to finalize the negotiation of Host Country Agreement with the Government of South Africa. The outcome of the negotiation involving PAP will also be instrumental to African Union Development Agency (AUDA)/NEPAD, and APRM, which are also based in South Africa.	AUC and Sub – Committee	The representative of the Government of South Africa noted, that the national legislations of South Africa, which does not allow for exemption of taxes is currently undergoing review and consultation process within the national legal system. In this regard, the representative requested to provide an on this issue in July 2019. The representative further requested that the Commission to avail the Headquarters agreement with the Government of the Federal Democratic Republic of Ethiopia, with the view to allow the national authorities to analyse the legal instrument.

		<p>October 2018, requested the Office of the Legal Counsel of the AU Commission, as secretariat to the Sub-Committee, to consult with the PAP and the Government of the Republic of South Africa, on the issues arising from the implementation of the Host Country Agreement between the African Union.</p> <p>3. On 5 November 2018, the Commission invited both the Government of South Africa and PAP have been invited to designate a focal person to liase with the AUC and the Sub-Committee and further invited them to attend the meeting of the Sub-Committee.</p>			
2.	Finalization of the Study on Host Agreements in Member States Hosting AU	<p>1. Desktop research has been concluded;</p> <p>2. Under the leadership of the Chairperson of the Sub-Committee on Equitable Geographical Distribution,</p>	<p>Consideration of the Report by the <i>Committee on Equitable Geographical Distribution of African Union institutions,</i></p>	AUC/Sub-Committee on Equitable Geographical Distribution of African Union	<p>PENDING</p> <p>The conclusion of this study is contingent upon the work being undertaken by the <i>Committee on Equitable Geographical Distribution of</i></p>

	Organs and Institutions	the OLC conducted field visits to South Africa (PAP, NEPAD, APRM, AU Foundation, African Risk Capacity), Tanzania (African Union Advisory Board on Corruption (AUABC), African Court on Human and Peoples' Rights (AfCHPR), Pan African Postal Union - PAPU) and The Gambia to the African Commission on Human and Peoples' Rights (ACHPR).	<i>Organs and Specialized Agencies</i>	institutions, Organs and Specialized Agencies	<i>African Union institutions, Organs and Specialized Agencies</i>
3.	Development of a set of Guidelines on the implementation of the Headquarters Agreement	<ol style="list-style-type: none"> 1. In order to enhance the mutual understanding on the application and implementation of the Headquarters Agreement, the Host Country and the Commission agreed to develop guidelines; 2. The Host Country requested the Commission to provide a list of challenges faced in the implementation of the Headquarters Agreement to be used as starting point for developing the guidelines; 3. The Host Country and the AU Commission agreed to 	<ol style="list-style-type: none"> 1. The Commission to transmit to the Host Country the list of challenges 2. Establishment of the joint committee 3. Development of the Guidelines 	AUC and Host Country	<p>PENDING</p> <ol style="list-style-type: none"> 1. The task was originally expected to have been concluded in April 2017. The meeting agreed to create a small working group to try to develop the guidelines on the implementation of the Headquarters Agreement including commentary notes on its provisions. The group will comprise of legal and protocol officers from both sides. <p>It was further decided that the working group will be meeting either the first or second week of February 2019.</p> <ol style="list-style-type: none"> 2. The Host Government has communicated the names of its designated focal persons to be part

		set up a joint committee to develop the guidelines; The PRC Subcommittee on Headquarters and Host Agreement requested the Host Country and AU Commission to expedite the development of the guidelines.			of the working group for the development of the Guidelines. It was agreed, that the Commission will develop a “Zero” Draft Guideline as a basis for discussions with working group.
4.	Issuance of Ethiopian Driver’s license	<p>1. The Commission informed the Host Country of difficulties issuance of Ethiopia Driver’s license in only Amharic language and requirement to undergo medical examination for renewal;</p> <p>2. The Host Country promised to look into the request in collaboration with relevant national authorities;</p> <p>3. The Host Country confirmed that the medical certification by the AU Clinic is accepted by the national authorities.</p>	<p>1. On an immediate basis, the host Country will try to issue the driving license in English language.</p> <p>2. In a long run to have a dedicated service unit within the Transport Ministry assisting the diplomatic community.</p> <p>4.</p>	Host Country	PENDING
5.	Money Transfer System	1. This matter brought by a number of member states requesting the Host Country to institute an instant money transfer system to allow diplomats to remit funds to relatives;	Host Country to update on the introduction of an instant money transfer system	Host Country	PENDING

		<p>2. This matter was discussed by the PRC Subcommittee Headquarters and Host Agreements and the Host Country has promised to look into it.</p> <p>3. The Host Country declared that the National Bank of Ethiopia has issued an official communication on the application of the SWIFT money transfer system that allows the transfer to be completed within 2 days</p>			
6.	Maximum withdrawal limit for AU Staff Members traveling	<p>1. The Host Country communicated that the Proclamation regulating foreign currency had been issued increasing the amount that a Diplomat could withdraw from the bank accounts when traveling outside Ethiopia. The amount had been increased from \$5,000 to \$10,000 since 2013.</p> <p>The Commission informed the Host Country that the Commercial Bank of Ethiopia is yet to implement the Regulation and called the latter to intervene.</p>	Host Country to update the Commission on the implementation of the Proclamation by Commercial Bank and other banks in Ethiopia.	Host Country	PENDING

7.	Request by the Host Country for full membership of the PRC Subcommittee on Headquarters and Host Agreements	<p>1. During the last meeting of the PRC Subcommittee on Headquarters and Host Agreements, the representatives of the Host Country requested that Ethiopia be granted full membership in order to effectively respond to the issues that arise out of the implementation of the Headquarters Agreement.</p> <p>2. The PRC Subcommittee on Headquarters and Host Agreement has deliberated on the issue and some concerns have been raised regarding the implications on the composition of the Subcommittee from the region, the membership of other member states hosting AU Organs, Institutions and Offices as well as possible conflict of interest issues.</p>	The matter requires a final decision by the PRC on the recommendation of the PRC Subcommittee on Headquarters and Host Agreements.	PRC Sub-Committee on Headquarters and Host Agreements	<p>PENDING</p> <p>To be presented to the PRC for consideration</p>
8.	Case of Amare Wolde	<p>1. Mr. Amare Wolde, a former staff member of the AU Commission who bought a vehicle from the AU Commission duty free. However, Ethiopian Customs Authority subsequently confiscated the vehicle on the premise</p>	<p>1. The matter to be settled out of court at the Immunities and Privileges section of the Ministry of Foreign Affairs.</p> <p>The Host Country to invite the Commission to the Privileges and</p>	AU Commission, Host Country & Amare Wolde	<p>PENDING</p> <p>The Host Government (Diplomatic Immunities, Privileges and Protection Directorate of the Ethiopian Ministry of Foreign Affairs) and the Commission met on 11 January 2019 to discuss</p>

		<p>that duty should be paid. Mr. Wolde took the matter to court and rulings of the Federal and Supreme Courts of the Federal Democratic Republic of Ethiopia have been issued;</p> <p>2. The Commission asserted its immunity from legal processes in accordance with the Headquarters Agreement and requested for an out of court settlement;</p> <p>3. The Commission requested the Host Country to inform the Courts that the AU is immune from legal processes and an out of court settlement will be reached;</p> <p>3. The Host Country informed AU Commission that the message was conveyed to the Courts and to set a date to resolve the matter in the presence of all relevant parties.</p>	<p>Immunities Directorate General with concerned Parties to resolve the matter amicably through negotiation.</p>		<p>the matter with a view to reaching an amicable solution.</p> <p>The Commission and the Host Country agreed to further engage in order to finally resolve the issue.</p>
9.	Challenges relating to Information and	<p>1. Information security and quality of Internet and telecommunication services have become a persistent</p>	<p>2. The Host Country to liaise with relevant national agencies to resolve the issue.</p>	Host Country	ON-GOING

	Communication Technology	<p>problem affecting the service delivery of the Commission, in particular these relate to:</p> <ul style="list-style-type: none"> a. Internet bandwidth b. Network intrusions c. Telecommunication device registration 4. Mobile data, SMS and phone calls service to elected officials of the Commission. 			
10.	Communication of changes in the Domestic Laws, Rules and Policies of the Host Country	<ol style="list-style-type: none"> 1. The Commission has informed the Host Country of the need for timeous communication to the AU and member states on changes to national laws, rules and policies that may affect the implementation of the Headquarters Agreement; 2. The Host Country has acknowledged the importance of timeous communication to the AU and its member states and will endeavor to do so; 3. The Host Country requested the Commission to submit any such issues as at when they arise. 	NONE	Host Country	ONGOING

11.	Request by the Host Country for a liaison office on the premises of the AU Headquarters	<p>1. During the PRC Subcommittee on Headquarters and Host Agreements, the Host Country requested for the establishment of a liaison office on the premises of the AU Headquarters to, among others, facilitate the resolution of issues arising out of the implementation of the Headquarters Agreement.</p> <p>The PRC Subcommittee on Headquarters and Host Agreements requested the Commission to provide the cost and other implications and present a detailed report with recommendations to the next meeting for consideration.</p>	The Commission to submit detailed report.	AUC	PENDING
		RESOLVED ISSUES			
12.	Detention of a staff members of the AU without explicit “waiver of immunity”	<p>1. On 25 December 2015, a staff member with Ethiopian nationality, Mr. Tinsae Beriso was arrested by the relevant authorities of the Host Country without an explicit waiver of his immunity contrary to Article 21 (6) of the Headquarters Agreement;</p>	The staff member, has been released.	AUC and PRC Subcommittee Host Country	RESOLVED

		<p>2. Several communications from the AU Commission to the Host Country have been transmitted stating its position on the matter;</p> <p>3. The matter has been discussed in the meeting of the Joint Headquarters Implementation Committee and the representatives of the Host Country disagreed with the position of the AU Commission that an explicit waiver was required for officials with <i>functional immunity</i>;</p> <p>4. Matter has also been raised during the meetings of the PRC Subcommittee.</p>			
13.	Repatriation of the personal effects/vehicle of a deceased staff member	The matter is now resolved and the deceased has been given permission to transport the vehicle free of duty or any tax.	N/A	Host Country	RESOLVED
14.	Visa denial to two (2) Eritrean nationals	1. An Eritrean national, Mr. Alem Kidane who was appointed as a staff member of the AU Commission had been denied visa to enter Ethiopia and consequently	The Host Country to communicate outcome to the Commission.	Host Country	RESOLVED

		<p>could not take up his appointment;</p> <p>2. A second Eritrean National who was due to resume work as part of the Eritrean representation to the AU, was also denied entry.</p> <p>The matter was brought by Eritrea during the meeting of the PRC Subcommittee on Headquarters and Host Agreement;</p> <p>3. The representatives of the Host Country indicated during the last meeting of the PRC Subcommittee on Headquarters and Host Agreement that the matter is being handled at the highest level and the outcome will be communicated to the Commission;</p> <p>4. The PRC Subcommittee on Headquarters and Host Agreement requested that this matter remain permanently on its agenda until resolved.</p>			
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15.	Physical body search of VIPs at the VIP section of Bole International Airport	The Matter is now resolved		N/A	RESOLVED
16.	Imposition of 2% tax/levy on the importation of new vehicle	The Matter is now resolved.		N/A	RESOLVED

DRAFT DECISION ON HEADQUARTERS AND HOST AGREEMENTS
Doc. EX.CL/1104(XXXIV)iv

The Executive Council,

1. **TAKES NOTE** of the Report of the PRC Sub-Committee on Headquarters and Host Agreements together with the matrix of pending issues contained therein;
2. **COMMENDS** the Sub-Committee on Headquarters and Host Agreements for its efforts in ensuring the resolution of the pending matter in implementation of the Headquarters Agreements;
3. **ALSO COMMENDS** the efforts of the Government of the Federal Democratic Republic of Ethiopia, under the leadership of Ambassador Woinshet Tadesse, former representative to the African Union in resolving some of the outstanding matters in the 'Matrix of Pending Issues';
4. **REQUESTS** the Sub-Committee on Headquarters on Headquarters and Host Agreements, though the assistance of the Commission to continue its consultation with Government of the Federal Democratic Republic of Ethiopia in addressing the remaining matters regarding the Headquarters;
5. **ALSO REQUESTS** the Republic of South Africa to find an amicable solution in finalization of the Host Country Agreements with AU bodies that are based within the territory of the Republic of South Africa and **TAKES NOTE** of the updates to be presented to the Mid-Year Coordination Meeting in Niamey, Niger;
6. **REQUESTS** the Commission in conjunction with the PRC Sub-Committee on Headquarters and Host Agreements and Sub-Committee on Equitable Geographical Distribution to urgently finalise the studies on Host Country Agreements and the Guidelines for Implementation of the Headquarters Agreement, which includes matters related to taxation of salaries of nationals, local staff or holders of permanent residence permits;
7. **REQUESTS** the Commission to report on the implementation of this decision at the next Executive Council meeting at the Mid-Year Coordination Meeting in Niamey, Niger;

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Report of the Sub-committee on Headquarters and Host Agreements

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